

### REMARKS

The Applicants thank the Examiner for the thorough consideration given the present application. Claims 1, 3 and 10 are currently under consideration. Claims 4, 6-9 and 11 have been withdrawn from consideration. The Examiner is respectfully requested to reconsider her rejections in view of the Amendments and Remarks as set forth below.

### TELEPHONE INTERVIEW

The Applicants note with appreciation the telephone interview granted by Examiner Reichle on September 1, 2004. At the interview, 6 suggestions were discussed with the Examiner concerning changes to the claims to overcome the rejection. No agreement was reached as to the allowability of claims with these suggested changes. However, the present Amendment is being presented with several of these changes included. Claim 1 further adds limitations that the sheet is planar and unstretched. Also, the claim now includes limitations that the elastic member is fixed to the sheet by adhesive applied discreetly at intervals and extending transversely to the longitudinal direction. These correspond to suggestions 1-3 at the interview. In addition, claim 3 has been rewritten in independent form and also includes the feature that the upright portion is directly attached to the middle of the elastically extensible portion. This corresponds to suggestion 6 at the interview.

### ELECTION OF SPECIES

The Examiner required an election of species between the species of figures 1-4 and the species of figures 5-8. By way of a telephone conversation on June 18, 2004, a provisional election was made of the first species of figures 1-4 including claims 1, 3 and 10. The Applicants affirm this election. However, the Applicants traverse the need for such an election since no difficulty is presented for the Examiner to consider these species at the same time.

### CLAIM OBJECTIONS

The Examiner objected to the claims due to 2 informalities. The Applicants have now incorporated the Examiner's suggestions for amendments to claims 1 and 10 in the present Amendment.

### REJECTION UNDER 35 U.S.C § 102

Claims 1, 3 and 10 stand rejected under 35 U.S.C §102 as being anticipated by or obvious over Mizutani et al. This rejection is respectively traversed.

The Examiner points out the Mizutani et al. device has an oblong absorbent article with an absorbing layer, a leak proof layer and standing gathers. The Examiner also points out that elastic member 7 is fixed to the sheet at 20b causing hollow ridges to be raised by contraction of the elastic member.

The Applicants disagree that the present claims are anticipated by or obvious over this reference. Claim 1 now describes in greater detail how the elastic members are fixed to the sheet. In particular, the adhesive is applied in intervals and transverse to the longitudinal direction of the elastic. The Applicants submit that the Mizutani et al. does not show this feature.

The Applicants have also amended the claim to make it clear that the sheet is both planar and unstretched and the elastic member is fixed to the sheet.

Furthermore, figure 7 shows that the top and the bottom parts of the wavy configuration are formed as a result of the pressing operation. Thus, the top part 20a and the bottom part 20b have high density. The skin contacting part 16 is made of these parts. Since the top part feels solid due to the high density, they are different from the soft ridges formed on the skin contacting surface of the present invention. Further, the Examiner agrees that the application of the adhesive is shown in column 7 and 8 of the reference. However, the Applicants submit that Mizutani et al. teaches that the valley of the wavy configuration is bonded to the elastic member. This is different from the structure of the present invention where the elastic member is bonded to the sheet. It is also noted that another Mizutani reference (U.S. Patent 6,624,340) has been cited which also shows the top and bottom parts of the wavy configuration are pressed. This reference also describes that the top part and bottom part have high density. Also, this reference shows how to bond the elastic member and the sheet by an adhesive which is continuously applied and does not extend transversely to the

longitudinal direction. For these reasons, the Applicants submit that claim 1 is neither anticipated by or obvious over Mizutani et al.

Claim 3 has now been rewritten in independent form to include the original limitations of claim 1. This claim has been amended to make it clear that the upright portion is directly attached to the middle of the elastically extensible portion. This is not seen in the reference where the element corresponding to the upright portion is connected to one side of the elastically extensible portion. Accordingly, the Applicants submit that claim 3 is likewise allowable. Claim 10 depends from claim 1 and as such is also considered to be allowable.

REJECTION UNDER 35 U.S.C. §103

Claims 1, 3 and 10 stand rejected under 35 U.S.C. §103 as being obvious over Taylor (WO 95/08972) in view of Boberg (WO 99/16398) and Correa et al. (U.S. Patent 5,312,386). This rejection is respectively traversed.

The Applicants submit that claims define over this combination of references as well. The Applicants submit that this combination of references does not show the application of adhesive at discreet intervals and extending transverse to the longitudinal direction and does not show the sheet being planar and unstretched. Further, the Applicants submit it would not be obvious to one skilled in the art to combine the 3 references since there is no teaching of the need to do so.

Office Action dated: July 2, 2004  
Amendment filed October 4, 2004

Applic. No. 10/056,485  
Art Unit 3761

CONCLUSION

In view of the above remarks, it is believe that the claims clearly distinguish over the patents relied on by the Examiner, either alone or in combination. In view of this, reconsideration of the rejection and allowance of all the claims are respectfully requested.

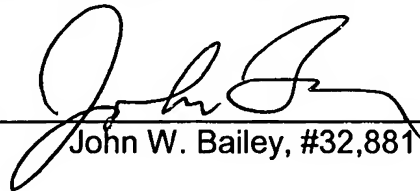
Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,


BIRCH, STEWART, KOLASCH & BIRCH, LLP

By



John W. Bailey, #32,881

P.O. Box 747  
Falls Church, VA 22040-0747  
(703) 205-8000

 JWB/RFG/te  
0445-0317P